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B.H.

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Apr. 25, 1889

# LIBERTY DEMANDED

FOR THE

Minister of Christ on Boston Common,

AND THE

Immediate Repeal of the Impertinent, In-  
jurious, Iniquitous By-Law that makes a  
Man a Criminal for Preaching thereon.

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Not to be Deferred.—No Delay Permitted.

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TO THE CHRISTIANS AND SELF-RESPECTING CITIZENS OF  
BOSTON :

*Gentlemen*,—I promised in my first pamphlet, demanding the repeal of the wicked and intolerable Ordinance forbidding the preaching of the Gospel on Boston Common, that I would address you again, and this is to redeem my word.

I intended to devote this pamphlet to a criticism of the “charge”—rather it should be said “plea,” for it was really a special plea against the gentleman on trial—by Judge Staples to the jury, in the Superior Criminal Court, on the occasion of the trial of Mr. Wm. F. Davis. But circumstances have arisen that require of me a change in my plan.

Gentlemen,—Since I addressed you (as you know), the Rev. Wm. F. Davis, your virtuous fellow-citizen, your beloved brother, has been branded a criminal, and thrust, like a common malefactor, into Suffolk jail! What words and indignation are sufficiently strong to express our just abhorrence of this shameful treatment of a man whose whole

life, thought and action have been goodwill to men! Well may Satan himself be in high glee at the work of his minions! There is no need to question where, in this century, Satan's seat is.

That it is a diabolical Ordinance is seen by its fruits. That it ought to go, is plainer every day. That any good man can compose himself to sleep at night recollecting that it is in force to the caging of a freeman of highest principle, shows that we have yet to rub the sleepiness out of our eyes to perceive the sin and shame that lie at our door. A white heat of righteous indignation stirs every manly breast. As to the craven crowd, let them behold the spirit of the Son of God, as with a scourge he drives the money-changers out of the Temple, and learn how *angry* a person can be and sin not. His zeal *consumed* him: His individual tenderness was lost in the majesty of His just ire. It is always good to be zealously affected in a good cause. I confess to *anger* toward an Ordinance that shuts up my dearly loved brother in a cell, for that singular, phenomenal crime, reading words of salvation upon Boston Common, and giving people to understand the sense; that they, through grace, might escape coming wrath! O ye Councilmen of Boston! ye have here indeed a very fearful crime! And if ye do not suppress it somebody might be saved; and what a thing that would be! The perpetrator of this crime deserves all the punishment you can inflict! Its repetition must be carefully guarded against! Pshaw! It is *hypocrisy* for the authorities to profess this is done for the City's good! It is too transparent cant to deceive even a fool! It is done for no such purpose. Such careful guardianship is not genuine, but a mere make-believe to cover an outrage. If our City rulers are so solicitous for the good of Boston, they have a host of *real* crimes to engage their attention, before they manufacture a new one, making it out of such pure goodness as preaching the Gospel of God. The fact is, the putting in force of this

practically dead-letter ordinance can only be explained on two principles: first, it was for the *persecution* of fearless Christian preachers, with the intention of putting them down (*and we shan't allow that just yet*); or, second, it was an act of wanton mischievousness; and we know the Good Book (yes, "Good Book," though it is *hated*, and put out of our schools) says, there is a class, called "wicked," who cannot rest till they have done mischief. So much by way of introduction.

Now a little of the history of this loathsome and iniquitous Ordinance that has put Bro. Davis in jail, and that keeps him there. It will serve to bring it into deserved contempt, and to strengthen the resolve that it shall be buried so deep amid the votes and execrations of honorable men and Christians, as never again to threaten an Evangelist in doing his duty.

First—It is a *sneak* ordinance,—as a snake, it crawled surreptitiously into the body of the City Ordinances. It was *very quietly* introduced. It was not put on record in the proper office; neither was it published to the people. Why? Were the framers *ashamed* of it? Did they feel that they were not prohibiting an evil, but restricting liberty? There is no voice to answer; but this is certain, the first thing some of the preachers upon Boston Common knew, was that they were summoned and fined for breaking a By-Law that had thus sneaked into the City Ordinances, and that they had not been notified of through the ordinary public prints—the newspapers! That was, of itself, a suitable beginning for so vile an Ordinance.

I omit its history *seriatim*, and come down to the day of the sentence of Bro. Davis for setting it at nought. Asst.-Dist. Attorney Dacey said, on asking for sentence against Mr. Davis, that the Mayor was willing to grant a permit to persons recommended by the Boston Young Men's Christian Association, and it had been left to them to give a certificate

of endorsement to enable any one so desiring to preach on the Common. Now I have no intention to speak disrespectfully of the highest municipal officer; but it must be evident to all, that even the Mayor has his limitations. As Mayor, and as trustee of public grounds of Boston, he has prerogatives above that of a common citizen, and we will sacredly defend them, and see that he has his rights to the full — for we are not against authority; but then also, there must be some shore where his *authority* as Mayor and trustee ends, as the waves of the sea on the seashore; and *there* must the fiat of the people go forth: “Thus far shalt thou go, and no farther.” Now where, by what statute, is the Mayor authorized to put power into the hands of a body of men he may select to grant or refuse to citizens certain rights guaranteed by United States and Statutory law — the right to worship God as he will, provided he harms nobody, and does not upset the quiet of this Commonwealth? There is none; and *the Mayor has exceeded his powers*. Again, the precedent is a bad one, as it makes a monopoly of source of right, and may prevent true servants of God from doing His will concerning them.

The Young Men’s Christian Association, in its private membership, are on an equality with every other citizen. They have never been elected as a recommendatory or executive body by *the People*; they have not been chosen by said People to attend to such matters. It is not for the Mayor, who is but a servant, but for *the People, who are the Royalty* of America, to say by vote if they will appoint this Association as a body to give or withhold letters giving advantages and privileges more than common. The same will apply to other societies and organizations.

Then, too, this might work badly; for if a man of God — a religious “crank” so-called — should be sent from Headquarters to say anything unpleasant — and say it as openly and publicly as Jonah in the streets of Nineveh, even on

Boston Common—they might not approve, and their prejudice might hinder a man of God from doing his duty.

And last,—and worst of all,—what means this reference to the Young Men's Christian Association—is it a fool's joke, or an intentional insult, to send a *leader* of the Lord's host, a *prince* in God's Israel, whose *status*, both in the New Testament and by general consent, is that of authority and command in the name of Jesus, to subordinates, for letters. I ask Mayor O'Brien, if he would think it the proper thing to send the Pope, or some lower “prince of the church” (so called by Roman Catholics), to a body of laymen, to obtain some religious privilege? Why then does he send a well-known Christian minister to an association of private Christians to get endorsement? It is of a piece with the By-Law—all bad together. In saying all this, I do not mean to degrade the Boston Young Men's Christian Association, nor speak as an enemy. So far from that, I know many of its members, esteem them very highly, am beloved by them, sometimes lead its meetings, and am in warm sympathy with its object: my only point is, that they be not made by will of the Mayor into a political body, or City executive.

This must suffice as to the history of the By-Law. I must pay attention to the great matter of trusteeship, and how good citizens “ought to obey the Law!”

The latter clause sounds so orthodox and religious, that some good people, not examining, have even condemned Bro. Davis for preaching on the Common without having gone to the Mayor and asked for permission. They say: It is so easy to get a permit; all he has to do is to ask, and the right will be given him. Of course, Bro. Davis views it differently: he feels and knows he *has* the right; and needs not it should be *given* him. As a free-born American, as a servant of Him who has all authority in heaven and on earth, he *has* the right. But I lay that aside, to consider the point of *right* to the use of Boston Common.

Who *owns* the Common? The reply must be, The City. Not the Mayor, the Aldermen, and the City Council: these are not the City. In their private individualities the officials are owners in common with the rest of the citizens; but they are not *sole* owners, and cannot rightly make arbitrary laws,—laws prohibiting use by other citizens, as much owners as themselves. The Common—the very name speaks common ground; and on common ground no restrictions should be placed but those that are absolutely necessary to protect the owners in common, and assure to them their full rights. Why require a certificate of character from a man to go on Boston Common to exercise the rights of free speech, an exercise that every independent soul finds necessary? As well might the Mayor ask that everybody entering Boston shall bring a certificate of good character before he shall have the use of the *streets* of Boston—its public roads. The argument, he may misconduct himself, used to preachers on the Common, will equally apply to persons on the streets. Why does not the Mayor require some friend, or society, to be responsible for persons who walk our streets? The answer is: Because he has no *right* to make such requirement; because it is preposterous. So, as an owner in common of Boston Common, the Mayor, a servant, has no right to ask to see a character from one of the owners of the land, before he will let him enjoy the use of it.

What is the meaning of [this—a servant dictating an owner? How comes it that the Mayor of Boston can change the time-immemorial rule of assuming good character in an orderly and well-behaved citizen, compelling him to prove it before he can have his rights? Tamely submit, who will; *but this is not the fundamental rule of this Republic, which makes the People king, and takes for granted they will behave themselves in an orderly and proper manner*; and only arrests them and brings them to answer for misdemeanor when they have committed a crime. I object to produce to

the Mayor *prima facie* evidence that I am a respectable, honorable man ; let my life be witness to that ; and if I misbehave myself, then call me to account ! And I decline at his *ipse dixit* to have anybody in any way be responsible for *my* actions.

What is *Boston* served in production of such character ? Is its peace strengthened ? Is its property safer ? Licensed or unlicensed, the gospel is intrinsically a message of peace, and promotes peace, and *cannot* militate against the peace of this Commonwealth. And I am of the opinion that, though an Evangelist preach by permit on Boston Common, mischievous persons will be just as likely to cut the trees or pick the flowers. *Boston* gains *nothing* by such permit : it is the executive who gain, who are thereby dignified into Kings ; and Boston's royalty — the People — are as much degraded and robbed of their rights, as these are exalted in their usurped powers.

But I am told, the Common needs to be taken care of, and the Mayor and Common Council are trustees appointed for that very purpose. To hear some persons talk, one would think we thought the Common should not be in charge of anybody, or be taken care of by anybody. Certainly, every sane man knows that it must be put in some person's charge, and that there must be "Regulations" pertaining to it : we are not yet so far gone toward lunacy as not to be aware of this A B C truism. *Care* we admit ; *care-takers* we agree with. *But they must be care-takers pure and simple*, confining themselves to their duties. And while they take care of the Common for the owners — *ourselves* — they must not pass regulations that will abridge us in our right of proper use, or in any way affect our religion, so long as it does not assume a seditious character or hurt our neighbor. A pretty thing this, — our servants passing laws that shut up us, the owners, in prison ! But this is what is being done. Bostonians look at it ! It is, as the late Rev.

Heman Lincoln put it—Our “Personal Rights” are “Lost in Boston;” and you—I was going to write, meekly submit and praise the usurpers; but I will not make this as a statement. I believe good citizens and true will not consent to any such thing! But if you do *not* consent, now is the time to give it emphasis, by dropping your vote into the ballot-box, and supporting those men who disapprove of servants turning masters, and will promise to restore stolen rights. I say not who they shall be: ask the candidates, and find out for yourselves.

*Care-takers*,—what is their duty? As I understand it, it is to protect, maintain, and improve the property entrusted to their care. There are despoilers everywhere, who mutilate, break down, deface, ruin: “Hands off” must be said by the care-takers to these mischievously inclined persons. Nuisances, such as offal, dirt, etc., must be rigidly forbidden: a place of recreation being no proper place for a dumping ground. The Common must also be maintained,—its paths looked after and kept neat, its trees pruned, flowers planted, etc., etc. It must be beautified, and rendered if possible still more attractive and delightful as a resort for its owners—the People. *This done, everything is done that the people of Boston require of its public servants, as caretakers.* To make a regulation making evil what is good, is to pass beyond care-taking; and the sentinels of the people, all who have not fallen asleep, must call a halt to the trespassers. Mr. Davis has called a halt, and Boston has let the trespassers seize him and put him into a cell! *But for all that the City Authorities MUST halt!* They must go back, or take the consequences. A great principle is at stake! Beware what you do with it. Permission is the half-way house between liberty and slavery.

A word as to law—it is instituted for protection; not as a menace and a threat to well-doing. But this Ordinance protects nothing and nobody; while it impertinently stands

and threatens injury to the servants of the Great King, returning evil for good. But God's laws never make well-doing a crime ; and it is well-doing, if a man is an Evangelist sent by Christ, for him to preach on Boston Common.

Should a steward abuse his trust, it would soon be said to him, "Thou mayest be no longer steward ;" and if the rulers of Boston, entrusted by the People with power to use for the public weal, so far assume as to make Ordinances, or even enforce them, that are *an assault on the people*, and injurious to God's servants, they must be commanded to vacate their chairs for worthier men than they. What have Mayor O'Brien, the Aldermen, and the Common Council to do with religion? They are incompetent to legislate upon Divine worship. They know not the first principles of service of God. They know not a Christian a whit better than the Jews knew Christ. Less do they understand what it is to be called and sent by Heaven to make proclamation of the Gospel, and summon men to repentance, that they may live. It is away out of their jurisdiction, as heaven is higher than earth.

An Evangelist is required to "Cry aloud and spare not ;" and to do so he must be free—perfectly free,—free as the air or the sunlight, to obey the Divine behest. He will be orderly ; for the God he serves is a God of order, and not of confusion. Such a man cannot allow his tongue to be tied ; in fact, he *will not* tolerate the shutting of his mouth. Like an old veteran minister, now deceased, he says : "*I speak for God, AND I WILL BE HEARD !* Heard on Boston Common, if God command his service thereon ! Moses was such a man as this. God sent him, as He sends men to-day. To the imperious Pharaoh, whose proud boast it was that nobody dare do anything or go anywhere unless at the royal pleasure, he said, Let Israel go a three-days' journey that they may serve God. Pharaoh, after being brought to his senses, and made to know that there is indeed a God who ruleth

in the earth, wanted to compromise—as the rulers of Boston wish to compromise to-day. But the man of God would not compromise. He was such an “obstinate” fellow as Bro. Davis is now. Hold your religious service, said Pharaoh, in Egypt. But Moses would not consent. “Go into the wilderness, but not very far,” said Pharaoh; but Moses was inflexible. “You who are men go,” suggested the King; but his suggestion was not acceptable. (And by the way, mark here, Pharaoh said, “For that ye did desire;” as the authorities say to-day, Beg a permit to preach the Gospel on the Common; for to preach “ye did desire.”) No, said Moses; “we will go with our sons and with our daughters.” He *demand*ed in the name of the Lord; as we *demand* to-day. Well, make *some* concession, said Pharaoh, go all of you; but leave your property behind. “Not a hoof,” said this sturdy man of God. We must be all out of your power,—your arbitrary power; and all our property also. And hearken to the reason fellow-citizens, “For we know not with what we must serve Him till we be come thither.” That is the reason—the great reason—the one reason, why the impious Ordinance must go, that shuts God, as represented by His servants, out of Boston Common, unless the Mayor and his coadjutors are graciously pleased of their generosity to open to Him the gates, and say, We permit you to enter! *God* cannot be allowed admission to Boston Common that way. And he *shall* not, without my protest, at least, as long as I am in this region. *He* has all rights there; and His servants will be heard there, at any cost.

An Evangelist starts out in the morning. He prays, earnestly and believingly, “Show me now thy way;” “Let me understand thy will concerning me;” “Let thy presence go with me.” That Divine will concerning him,—a gradually unfolding will, the requirements of which are sometimes not known an hour ahead,—is suddenly made known to

him; for beside the general will of God, there is a special will pertaining to each individual servant. He finds himself on Boston Common. He is impelled to "Preach the Word!" But he is not free to do so. An angel of wrath stands with a naked, flaming sword ready to strike, should he obey. Again comes the command, "Preach the Word!" Now he must disobey. Shall he disobey God, or man? He must transgress. Shall he transgress against Heaven, or against the Ordinance of the City? If he disobey God, a cloud enshrouds him; he has not dispensed freely what he has received to give; he ceases to be "*faithful* in Christ Jesus." If he disobey the City Ordinance the Authorities will deal with him; he will be berated by a godless and shameless press,—so filthy, so vulgar, so blasphemous, so depraving, as hardly to be equalled by any city we are acquainted with; he will be censured by some—we were about to write Christians, but our pen is holden and we are forbidden: by some traitors, some Judases, some worldly-minded professors. (God bring them to repentance! For Jesus himself felt the unkindest cut of all, the keenest sword, that which went deepest into his soul, was to have his own "familiar friend" turn upon him.) He counts the cost. He says: That Ordinance ought not to exist: it makes me a transgressor against my will; I must obey God; and forthwith he preaches! He shares the faith of Gregory Nazianzen—

"For Thee I am a breathing sacrifice:"

not *killed* yet, but "*ready* to be offered;" and with that famous Greek poet he looks up to his Lord and reverently exclaims:

"I tie my tongue, and loose it, at *Thy* will;  
In either, what Thou wouldst may I fulfill.

He does not—he *can not* tie his tongue, or loose it, at the will of the Mayor of Boston. He will do all that is right by the Mayor. He will dutifully obey him in all proper

requirements. He will pay what is demanded of him to meet the necessary expenses of the city. He will give him his moral support in enforcing righteous laws; and will plentifully praise him, *if he deserves it*: but it is essential that he be as *free as the Constitution declares him* in the exercise of his religious convictions, subject only to its prescribed restrictions. This liberty is *essential* to a godly man's good living, and *must be had*; and to be had, the Ordinance forbidding the preaching of the Gospel on the Common must go under.

Gentlemen,—some of you may have no positive feeling toward this Ordinance touching yourselves. You may not be called to this ministry by the Lord Jesus. You may have no social subject pressing on your mind, that you think it would be beneficial to present for the consideration of your fellow-citizens. It may not reach to you. Should this be the case, still you have a duty. You ought not to be indifferent to Liberty and the inalienable rights of the citizens of this fair land. Your *manliness* should hold over the head of the abused a shield—you should defend your fellow-citizen whom it does touch as your own brother. And at the first sign of dictation on the part of what should be representation, you should arise and protest. For the Sovereignty of Boston—the People—never expressed a *wish* to have God's ministers put in prison, never *asked* repression of the Gospel on the Common: all they want of the trustees of the public grounds is care-taking.

Is it not shameful that it should be possible for a good citizen, Mr. H. L. Hastings, to be obliged to write thus (and in quoting it, I personally disclaim any race prejudice as such, yet cannot brook dictatorship)?

“Here is one aspect of the Irish Question which should not be overlooked. Irishmen love liberty, hate tyranny, and flee from Ireland to escape British oppression. They land in America, and enjoy the liberties, the privileges, the schools and the institutions

which they never could have gained in their own country, and which *my ancestors* came over and *helped to plant* in the wilderness in 1635; and which for four successive generations they, as ministers of the Gospel, have upheld. And now these same liberty-loving, whiskey-drinking, tyrant-hating, Irish patriots turn around and show their love for liberty (?) by locking me up in Charles St. Jail for reading the Bible on Boston Common, while at the same time they hire a brass band to go and play jigs Sunday afternoons, in defiance of State law, and tax me to pay the piper, when I do not dance, nor wish to hear the music!"

I submit, gentlemen, that this man, whose fathers reclaimed this once-wilderness country, and went through all the incidental hardships and privations, deserves something better of the people who are reaping the benefits of their labors than to be shut up in prison for preaching the Gospel; and even every decent Irishman, Romanist though he may be, will agree with us that it is too bad. But look, gentlemen, there is the cause of it all—that odious Ordinance that prohibits preaching on Boston Common. Oh, expunge it, expunge it!

But I must defend the man of God, in jail for the word of God and the testimony of Jesus Christ. Do you know him? Have you ever talked with him? The servile papers, the sycophant news-organs (not all in Boston, for some deserve to be written of with better adjectives), call him a “crank,” attribute to him unsoundness of mind; make him out a troublesome person; but there is another character to be given him,—not to praise man, not for any sordid end; he owes it to Divine grace, natural gift, and improvement of the same,—he is one of a thousand. A faithful husband; an affectionate father; a pure citizen; an affable gentleman; an accomplished scholar; a self-denying Christian; a man honored of God to the salvation of sinners; a fearless, incorruptible man, who goes forth into the Vineyard with Christ alone for his dependence: he is my brother, and I hope great cords of love will ever bind us together; for I am benefitted

by his spirit and words, and it will be a delightful thing to live with him and his like in the age of restitution and glory now close upon us. I stand for him; though all Boston were against him, (which, thank God, is far from the fact, as thousands of signatures at hand petitioning for the repeal of the impudent Ordinance and his release abundantly testify).

“Why doesn’t he ask for a permit?” say many; “it would end all controversy.” You should by this time have learned why,—because a great principle is involved; the Constitution is trampled upon; personal rights are being repressed; it is inconsistent with the mission and authority of a Christian-sent minister.

But, there is another answer: He has been fooled and refused by the very persons who now seem so willing to get out of the disgrace with which they have covered themselves. *Friends HAVE applied for a permit for him, AND BEEN REFUSED!* Did you ever read of Luther, that lion-hearted man of Germany? At first Luther did not assume that position toward the Papacy that he afterwards did. He humbled himself, he grovelled, he crawled in the very dust of self-abasement. But Rome treated him with a high hand; and Luther began to search to see what were his *rights* as a believer in Christ, and whether he must really get grace through Rome; and gradually he stood out, till he denounced the Apostacy, with all its glitter and emptiness. Friends, at first, in behalf of Bro. Davis, asked permission for him to preach on the Common. The *Boston Journal*, date of Aug. 4, 1884, said:

“Rev. Wm. Davis *applied* to the Common Council Saturday for permission to preach on the Common on Sunday.”

Please notice what follows:

“His request was **REFUSED**, and the Committee then voted to refuse all such requests.”

Now, since this By-law has become such a stench in the nostrils of the respectable part of the community, and the

Executive has been execrated for using it to the imprisonment of good men, the Common Council plead their exceeding willingness to give a permit ! But, as in Luther's days, this thing has meanwhile been looked up. The bulwark of the Republic and the Bill of Rights, in addition to every moral and religious principle and the sentiment of the purely Christian part of the community, have been carefully examined, and profoundly considered, and it has been settled to a certainty that *law* as well as right is on the side of those adjudged law-breakers. Luther now asks no permission, but declares his independence, denounces interference with his rights as an insult of the Body Politic, and his fine and imprisonment as injury added to insult ; and calls upon you, honorable men of Boston, and looks to you, and has confidence in you, that you will banish that Ordinance to eternal night ! I think you will not disappoint a man, who for Boston's sake, as well as Christ's, is now confined in Suffolk jail.

“ Why doesn't he get a permit ? ”—ah ! you think it *easy*, do you, to approach the officials of this City ? They will treat you with courtesy, will they ? You will have gentlemanly consideration,—is that your thought ? No doubt some are gentlemen ; but what is this outcry in the newspapers of the bullying and disrespectful treatment some have received when they have gone to see these officials ? I am not without some experience in this line. I have met with gentlemen, who behaved themselves as gentlemen ; but again I have met with the exact opposite ; and it is not so easy and pleasant to have to do with persons who had no advantages of refined breeding and could not be an ornament to their office if they lived to the age of Methuselah. It is against a respectable man every way to ask for a permit ; and we are now so near to the repeal of the Ordinance that it is too late in the day to think about it.

I am for honoring the City Council to the extent of giving them the first opportunity of blotting out the injurious

Ordinance. They may at length cast it away as an old kettle they have tinkered and find they cannot mend. It will give them a chance to say practically, "We repent of having put it in force." And if they so repent, it will cover them with credit, as they have been covered with ignominy. But if they obstinately refuse, and say, "Boston wants no religion and no salvation," then we have the Legislature of the State, and the whole State must instruct its representatives to do their duty. But it is hoped that this latter will not be necessary. It is hoped that the authorities will be sick of it, and feel they can walk in a better way, a way to command the respect and praise of such as are purest and best.

Men of Boston, I have done my duty: now do yours. I have discharged my conscience; and for this matter, at least, I shall not be to blame. Actions, oh actions; not words! The speech-making is done: the time has come for deeds. Ten million volumes could not make good a By-Law intrinsically bad.

Remember, I lay the obligation upon you, as good citizens, as loyal adherents of this Republic, as disciples of Jesus (as far as you belong to this body), as respectable men, to enquire plainly, by direct question, of every candidate for office, if he will honestly use his whole power to console Liberty, who stands weeping and will not be comforted for the outrage done her in our city! But if you fail, I warn you. I warn you by the history not of one country but several — that you will lose other rights, which will be transmuted into permits, and by and by, and in vain, and alas! too late, shall you think of this time, and how you tamely consented to be fettered. God save you from this experience!

Your servant,

WILLIAM KELLAWAY.





(Nov., 1887, 20,000)

## BOSTON PUBLIC LIBRARY.

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